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7 Attorney for Plaintiffs

8 UNITED STATES DISTRICT COURT

9 FOR THE DISTRICT OF ALASKA

10 Phyllis Aguchak, as )  
11 Guardian of Phyllis Rivers )  
12 and A.S and J.R, )  
13 minor children )  
14 Plaintiff, )  
15 vs. ) Case no. A 15 - Civil  
16 UNITED STATES OF AMERICA, )  
17 Defendant. )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

COMPLAINT

16 COMES NOW Plaintiffs, and for their cause of action  
17 against the United States of America, state as follows:

I. Jurisdiction

20 1. At all times relevant hereto, the Plaintiffs were  
21 residents of Scammon Bay, Alaska, in the District of Alaska.  
22 Phyllis Aguchak was appointed guardian on December 17, 2014.  
23 Phyllis Aguchak is the mother of Phyllis Rivers. A.S. and J.R.  
24 are minor children of Phyllis Rivers.

1           2. This cause of action arises under the Federal  
2 Tort Claims Act 28 U.S.C. sec. 1346, 2401, and 2671 et seq.

3. At all times relevant hereto, the nurses, medical  
4 staff, Dr. Daniel Buffington, Dr. Jeremy Wood, Dr. Matthew  
5 Schnellbaecher, Dr. Joseph Park, Dr. Allanna Small, Dr. Jacob  
6 Gray, and Dr. Benjamin Westley, who treated the plaintiff  
7 Phyllis Rivers from December 16 to December 23, 2013 were  
8 employees or agents of the United States of America.

10           4.         At all times relevant hereto, the Yukon Kuskowim  
11 Health Corporation, hereinafter referred to as (YKHC), and the  
12 Alaska Native Medical Center, hereinafter referred to as  
13 (ANMC) were agents of the United States of America.

14           5.        Each of the employees and entities named above  
15          were acting within the scope of their employment and/or agency  
16          at the time of the events described herein.

17       6.           On December 20, 2014, the claims set forth herein  
18                  were presented to the United Stated Department of Health and  
19                  Human Services, Public Health Services. Six months has passed  
20                  and there has been no response to the administrative claim.  
21

22           7.         Based on paragraphs 1-6 above, this court has  
23 jurisdiction over the claims asserted herein.

## II. Facts

1           8.         From December 16, 2014 to December 23, 2014  
2 Phyllis Rivers was a patient at the YKHC and ANMC, and she was  
3 in the hospital for symptoms consistent with endocarditis,  
4 i.e. laboratory findings, a known underlying cardiac valvular  
5 abnormality, skin lesions, a pathological murmur, and a  
6 febrile illness for several days unexplained by another  
7 process.

8           9.         Ms. Rivers was treated for endocarditis. She  
9 responded well to her antibiotic treatment. Her blood  
10 cultures were negative. The ultrasounds could not exclude  
11 vegetation due to her heart abnormality. The doctors  
12 discontinued antibiotic therapy on December 20, 2013. Ms.  
13 Rivers was monitored for three days and released with no  
14 appropriate follow up. On January 9, 2014, Ms. Rivers had a  
15 massive stroke. She is now partially paralyzed, has permanent  
16 brain damage, and requires twenty four hour a day care.  
17

18           10. The children, A.S. and J.R., have loss of consortium  
19 claims.

20           III. Negligence

21           11. Plaintiffs incorporate the allegations set forth in  
22 Paragraph 1-10.

23           12. The allegations of negligence against the agents  
24 and/or employees of the YKHC and AMNC, include, but are not

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1 limited to the following, failing to properly take blood  
2 cultures, failing to properly diagnose Ms. River's condition,  
3 failing to follow up with an echocardiogram within 7 to 10  
4 days after her last test on December 20, 2014, and failing to  
5 properly diagnose and treat her endocarditis, instead sending  
6 her home on December 23, 2013 to a remote village in western  
7 Alaska without appropriate follow up. The agents and  
8 employees of YKHC and AMNC failed to exercise the degree of  
9 care ordinarily exercised under the circumstances by health  
10 care providers in their field or specialty.

12       13. The negligent and reckless care and conduct of  
13 employees and/or agents of the YKHC and ANMC was a direct and  
14 proximate cause of the plaintiffs' injuries.

15 WHEREFORE, plaintiffs' pray for relief as follows:

1. Past and future pain and suffering.
  2. Past and future medical expenses.
  3. Past and future lost earning capacity.
  4. Any other relief courts deems just and proper.

DATED this 24<sup>th</sup> day of June, 2015, at Bethel, Alaska.

LAW OFFICES OF DAVID HENDERSON  
Attorney for the Plaintiff

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